



EX PARTE OR LATE FILED

GTE Service Corporation

1850 M Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 463-5214

Gail L. Polivy
Senior Attorney

DOCKET FILE COPY ORIGINAL

RECEIVED
JUN 20 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 20, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, DC 20554

Re: CC Docket No. 96-61
Rate Integration
Ex Parte

Dear Mr. Caton:

This letter, submitted by GTE Service Corporation ("GTESC") on behalf of its affiliated GTE carriers, is in response to a letter from the Common Carrier Bureau¹ concerning implementation of Section 254(g) of the 1996 Telecommunications Act ("the 1996 Act"). Two copies of this letter are filed in accordance with Section 1.1206 of the Commission's Rules.

The FCC letter is addressed to GTE Service Corporation asking it "to submit, within two weeks, a plan for implementing Section 254(g) as applied to the interexchange services your company provides to the Northern Mariana Islands." As an initial matter, it should be noted that neither GTE Service Corporation nor its parent corporation, GTE Corporation, is a carrier within the terms of the Communications Act. Therefore, neither of these companies provides any interexchange communications services. As the Commission is aware, however, other subsidiaries of GTE Corporation are engaged as common carriers and do

¹ Although the Bureau letter was dated June 5, it was not faxed to GTESC until June 6. This response is being submitted two weeks from the later date.

071

Mr. William F. Caton
June 20, 1996
Page 2

RECEIVED

JUN 20 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

provide communications service to various points.² It is those subsidiaries which provide services pursuant to Section 214 authorizations in their own name, and are subject to a variety of structural and accounting requirements designed to effectuate Commission policies.³ GTE SC responds herein on behalf of these affiliated companies.

GTE explains below why the FCC's rate integration policies require careful consideration of several factors before determining the most appropriate means of extending rate integration to the Commonwealth of the Northern Mariana Islands ("CNMI"). First, however, it is important to recognize that the 1996 Act does not authorize the FCC to mandate rate integration across affiliated service providers, as was suggested by the Bureau staff to representatives of GTE SC at a meeting on June 14, 1996. Rather, the references to "each such provider" and to "its subscribers" in Section 254(g) indicate that the rate integration requirement applies only to a single "provider" of interstate telecommunications services. Different affiliates within a single holding company cannot be considered a single provider. And, as explained above, neither GTE Corporation nor GTE Service Corporation is a provider of telecommunications services.

Support for this interpretation comes from other provisions of the statute and from the legislative history. First, Congress was careful to distinguish between a telecommunications service provider and its affiliates in other provisions of the new Act, a fact that strongly implies the term "provider" does not encompass affiliated entities. For example, Section 224(g) states that a utility engaged in "provision of telecommunications services" shall impute to its costs *and charge any affiliate* the relevant pole attachment rate. Section 271 prohibits a Bell operating company *or any affiliate* of a Bell operating company from providing

² GTE Card Services Incorporated (d/b/a GTE Long Distance) (debit cards, resale of MTS), GTE Telecom Incorporated (private lines), GTE Government Systems Corporation (private lines to the government), GTE Mobilnet Incorporated (and subsidiaries) ("GTE Mobilnet") (cellular), GTE Airfone Incorporated ("GTE Airfone") (air-to-ground), Micronesian Telecommunications Corporation ("MTC"), (MTS, WATS, private lines from the CNMI), GTE Hawaiian Telephone Company Incorporated ("GTE Hawaiian Tel") (MTS, WATS, private lines, except to the U.S. Mainland).

³ The Commission has long recognized that the entities that hold Section 214 authorizations are different and distinct from either a parent holding company or an affiliated company. See *GTE Corporation and Southern Pacific Company*, 94 F.C.C.2d 235, 259-60 (1983).

interLATA services. Section 652(a) prohibits a local exchange carrier *or any affiliate of such carrier* from acquiring a cable company in the local exchange carrier telephone area. Second, the Conference Report regarding the rate integration requirement explains that "the conferees expect that the Commission will continue to require that geographically averaged rate integrated services ... be generally available in the area served by a *particular* provider." This reference to a particular provider again demonstrates that the rate integration obligation applies to each individual service provider.⁴

GTE is unaware of any instance in which the Commission has ignored legitimate legal distinctions between corporate subsidiaries in addressing rate integration issues. Requiring each carrier to effectuate rate integration in its own rates is also consistent with many other Commission policies that regulate different telecommunications services separately. For example, the GTE telephone companies, local exchange carriers subject to price cap regulation, are regulated differently than GTELD, a non-dominant reseller, or the GTE Mobilnet cellular companies, CMRS providers. Indeed, separate entities are often used to prevent cross-subsidies between carriers. Mandating rate integration across affiliated service providers, as the Bureau appears to suggest, would require cross-subsidization between affiliates, clearly contrary to any past Commission policy.

Assuming that Section 254(g) of the 1996 Act⁵ requires rate integration for

⁴ Notably, MTC is a long-standing, independent service provider, and there is no basis for concern that it was established solely to avoid rate integration.

⁵ Section 254(g) INTEREXCHANGE AND INTERSTATE SERVICES - Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the *rates charged by providers* of interexchange telecommunications services to subscribers in rural and high cost areas *shall be no higher than the rates charged by each such provider* to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State. (emphasis added)

offshore points,⁶ the Bureau's letter asks GTESC to provide its "plan" for the rate integration required by Section 254(g). As the Commission well knows, however, rate integration is a complex matter that cannot be resolved through the plan of a single carrier but requires concerted action by all carriers that serve the area in question. Although the new law cites to earlier rate integration proceedings, the history of those proceedings confirms that rate integration involves many, sometimes conflicting, policies which must be considered before the matter can be resolved. One objective is that rate integration will lead to lower rates. However, the Commission must also consider, as it has as recently as two years ago, other rate integration objectives, such as universal service and competition, before this matter can be resolved.

Rate integration has always involved major proceedings. In 1976, the FCC adopted an integration policy for rates between the U.S. Mainland and Alaska, Hawaii, Puerto Rico and the Virgin Islands.⁷ While each of the non-contiguous areas involved a different implementation plan, each resolution had one common element: a joint service arrangement and settlement mechanism between the offshore carrier and AT&T.⁸ The objective was to reduce rates, to avoid local

⁶ Presumably, this intention to incorporate the Commission's rate integration policies throughout the nation extends rate integration to all offshore U.S. points not currently covered by rate integration policies, although it is interesting that Congress did not use the term "insular" areas in Section 254(g) as it did in Section 254(b)(3). Other than stating the intention of Congress and referencing the FCC's rate integration policy, the Conference Report does not indicate how this rate integration is to be accomplished.

⁷ *Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands*, Memorandum Opinion, Order and Authorization, 61 FCC 2d 380 (1976), *mod. and aff'd. on recon.*, Memorandum Opinion and Order, 65 FCC 2d 324 (1977).

⁸ This rate integration policy was adopted prior to divestiture and significant competition when joint service agreements and settlements were the normal operating procedure between carriers. The FCC defined "settlements" as the mechanism by which carriers jointly participating in the provision of interstate MTS services recoup their respective costs, including rate of return, in provision of such service.

rate increases and to assure adequate compensation to the offshore carrier.⁹ The various implementation plans resulted in lower rates to the offshore points as well as compensation to the offshore carrier for lost revenues through the settlements paid by AT&T, who recovered this revenue from its other ratepayers. Over time, these joint arrangements dissolved for various reasons.¹⁰

With the advent of competition, the Commission has recognized that the past rate integration models may not be appropriate. In the case of Alaska, the FCC began a proceeding to determine the long term relationship between rate integration and competitive policies which eventually led to a Joint Board proceeding.¹¹ In 1993, the Joint Board, based on certain objectives,¹²

⁹ From the outset, the Commission has recognized that rate integration should not overly burden other ratepayers. *Accord Domestic Communications Satellite Facilities by Non-Governmental Entities*, 35 F.C.C.2d 844, 858 (1972) ("nationwide cost averaging structure and uniform mileage rate pattern should not be burdened with costs that are greater than necessary" to accomplish the integration of Alaska, Hawaii and Puerto Rico.)

¹⁰ For example, for Hawaii, the FCC accepted a plan suggested by Hawaiian Telephone Company and AT&T that established their joint provision of service, reduced rates and devised a division of revenue arrangement. For an interim plan, a division of revenue of Hawaiian Telephone Company 60%/AT&T 40% increasing to 75%/25% was proposed to avoid increases to Hawaiian Telephone's local rates and to keep Hawaiian Telephone Company "whole." 61 FCC 2d at 385. The FCC later ordered a division of revenue based upon the Separations Manual. The change from the former agreement to cost based settlements resulted in a \$32 million reduction in interstate revenue for Hawaiian Telephone Company. A five year transition allowed Hawaiian Telephone Company the opportunity to seek and obtain increased intrastate revenue to offset this loss. This joint service arrangement was subsequently terminated in 1984 after GTE acquired Sprint and Hawaiian Telephone Company was required to exit the interstate market.

¹¹ *Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands*, Notice of Inquiry, 95 F.C.C.2d 567 (1984).

¹² The stated objectives were preservation of universal service, continuation of rate integration, maintenance of revenue requirement neutrality, allowance of market-based competitive entry and encouragement of increased efficiency.

recommended that the joint service arrangement be terminated, that Alascom be allowed to file its own tariff with no obligation to charge AT&T's integrated rates and that AT&T would make a \$150 million transition payment to Alascom.¹³ The FCC adopted the modified Joint Board Decision in 1994, expressing the need "to harmonize rate integration, competitive policies, and universal service objectives."¹⁴

The Commission's challenge is how to implement rate integration for the offshore points in today's telecommunications environment. Since existing rate integration policies were developed and implemented, for the most part, prior to the introduction of equal access and competition, past implementation experience appears to be of little value, although these plans ultimately adopted cost-related separations. GTE believes that the current rate integration proceeding must also harmonize rate integration with these other important objectives -- preservation of universal service, continuation of rate integration, maintenance of revenue requirement neutrality, allowance of market-based competition and encouragement of increased efficiency -- and perhaps others.

Rate integration would affect each of the GTE carriers differently. The following explanation is provided of the operation and implications of rate integration for the various carriers.

Micronesian Telecommunications Corporation ("MTC") is the Local Exchange Carrier operating in the CNMI. MTC provides local and access service in the CNMI to approximately 16,000 subscribers. MTC also provides interexchange and international service originating in the CNMI, but does not provide interexchange or international service from other points to the CNMI. Only one

¹³ *Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands*, Final Recommended Decision, 9 FCC Rcd 2197 (1993).

¹⁴ *Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands*, Memorandum Opinion and Order, 9 FCC Rcd 3023 (1994). AT&T ultimately acquired Alascom in 1995. *In re Application of Alascom, Inc. AT&T Corporation and Pacific Telecom, Inc. for Transfer of Control from Pacific Telecom, Inc. to AT&T Corporation*, Order and Authorization, 11 FCC Rcd 732 (1996).

other interexchange carrier, IT&E Overseas, Inc., has established a Point of Presence ("POP") in the CNMI.¹⁵

Under its existing rate structure, MTC charges the same rate from the CNMI to the U.S. Mainland and Hawaii. Rates are lower to Guam and higher to Puerto Rico, the Virgin Islands, Alaska and American Samoa, because of the facilities used to provide service from the CNMI to these points. Accordingly, MTC believes that its current rate structure already conforms with the rate integration provisions of the statute.

Although rates to certain points are higher than rates charged for calls to other domestic points, the rates are reasonable given the circumstances. As GTE explained in its Comments and Reply Comments in this proceeding, the cost of providing service from the CNMI to the other U.S. points is unusually high. There are no domestic facilities serving the CNMI. All of the calls to the U.S. Mainland, Hawaii, Alaska, Puerto Rico, the Virgin Islands and American Samoa and substantially all of the calls to Guam are routed through more expensive international satellite facilities. Currently there is no fiber cable to the CNMI, although MTC plans to construct a fiber cable.¹⁶ Although the underpinning of the original rate integration policy was the distance and price insensitivity of satellite facilities, the rationale is not the same when comparing domestic and international satellite facilities. As explained in earlier pleadings, international satellite facilities cost 3-4 times as much as comparable domestic satellite facilities.

As stated above, MTC complies with the specific provisions of the Section 254(g) raised by the Bureau. Nonetheless, MTC has notified the Guam/CNMI Working Group of its intention to join in an effort to suggest further rate integration steps which MTC could not undertake alone, as the Bureau seems to suggest. It is MTC's hope that this process will result in a "plan" that will meet the Bureau's approval.

GTE Hawaiian Tel provides MTS, WATS and private line service from Hawaii to the offshore U.S. points including the CNMI, but does not provide service to the

¹⁵ Feature Group D service has been available from MTC in the CNMI since 1993. However, no national interexchange carrier has established a POP or provides originating service from the CNMI to other domestic points.

¹⁶ MTC received a Cable Landing license from the FCC in 1993 and recently received cable landing approval from the CNMI government.

U.S. Mainland. GTE Hawaiian Tel's rates to offshore points have developed over time and are competitive with those of other providers. GTE Hawaiian Tel is prepared to adjust its current rate structure to conform to an appropriate rate integration policy developed by the Commission.

GTELD¹⁷ is a reseller of the communications services of other facilities-based carriers. Currently, service is offered to the 50 states and District of Columbia in GTELD's domestic tariff. Because GTELD merely mirrored the rates of its facilities-based supplier, LDDS Worldcom, rates to the CNMI are shown in GTELD's international tariff. Although GTELD recognizes that after rate integration, rates to the CNMI would be included in the domestic tariff, it would be premature for GTELD to state proposed rates to the CNMI until its supplier adjusts its rates.

GTE Mobilnet Incorporated and GTE Airfone Incorporated are CMRS providers. They provide the interstate communications services of a facilities-based carrier in conjunction with their cellular and air-to-ground services to domestic locations including offshore points. Like GTELD, they have no facilities of their own to these offshore points.

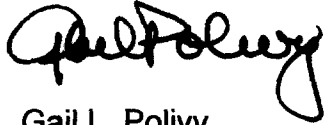
Neither GTE Telecom Incorporated nor GTE Government Systems Corporation currently provides service to or from the CNMI. Thus, in the language of Section 254, they have no "subscribers" in the CNMI.

¹⁷ In accordance with the Fourth Report and Order, 95 F.C.C. 2d 554, 575 (1985), and the Fifth Report and Order, 98 F.C.C. 2d 1191, 1198-99 (1986), in the FCC's *Domestic Competitive Carrier* proceeding, to qualify as domestic non-dominant carrier, GTELD is required to operate separately from the GTOCs. GTELD has separate books, does not jointly own transmission or switching facilities with the GTOCs and, if it were to acquire access service from the GTOCs, it would be by access tariff. In fact, GTELD's structure goes beyond what is required by the *Domestic Competitive Carrier* orders because those orders do not require that the non-dominant affiliate of a LEC be as structurally separated from the LEC as is GTELD.

Mr. William F. Caton
June 20, 1996
Page 9

If you have any further questions, please contact me or Gordon Maxson (202) 463-5291.

Sincerely,

A handwritten signature in black ink, appearing to read "Gail Polivy". The signature is fluid and cursive, with the first name "Gail" and last name "Polivy" clearly distinguishable.

Gail L. Polivy
Attorney for GTE Service Corporation

cc: Sherrille Ismail
Neil Fried
Parties of Record